

Assembly Bill No. 2364

CHAPTER 678

An act to amend Sections 1030, 1032, 1256, 1329, 1329.1, 1537, and 3011 of, and to repeal Division 5 (commencing with Section 12100) of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, Nava. Unemployment insurance: benefits: good cause to leave work.

Existing law provides for unemployment compensation benefits to eligible individuals who are unemployed through no fault of their own. Existing law authorizes any employer who is entitled to receive specified notice of an unemployment claim, to, within 10 days after mailing of the notice, submit to the Employment Development Department specified facts disclosing whether the claimant for benefits left the employer's employ voluntarily and with good cause under certain circumstances, including, among other things, that the claimant left the employer's employ to protect his or her children or himself or herself from domestic violence abuse.

This bill would revise various provisions governing eligibility for unemployment compensation benefits to specify that a claimant is eligible for benefits where he or she left an employer's employ to protect his or her family from domestic violence abuse. By increasing the number of persons who may be eligible to receive unemployment compensation benefits, thereby providing for increased amounts payable from the Unemployment Insurance Fund, the bill would make an appropriation.

Existing law requires the department, upon the filing of a new claim for benefits, to promptly make a computation regarding the maximum amount of benefits payable, and to promptly notify the claimant of the computation.

This bill would also require the department to promptly notify the claimant of the method of computation.

Existing law requires, whenever any warrant drawn on an account in the Unemployment Fund, the Unemployment Administration Fund, the Contingent Fund, or the Disability Fund by the Controller remains unclaimed after 3 years, that amount reverts to the account and the fund from which the amount was payable.

This bill would reduce that time period for reversion of those amounts to one year.

Existing law requires the department to administer specified provisions related to leisure sharing, to become operative upon the date that any federal

or other funds are received, and specifies that those provisions shall remain in effect for a period of 3 years after that date.

This bill would repeal those laws related to leisure sharing.

This bill would incorporate additional changes in Sections 1030, 1032, and 1256 of the Unemployment Insurance Code, proposed by AB 2055, to be operative only if AB 2055 and this bill are both chaptered and become effective on or before January 1, 2011, and this bill is chaptered last.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1030 of the Unemployment Insurance Code is amended to read:

1030. (a) Any employer who is entitled under Section 1327 to receive notice of the filing of a new or additional claim may, within 10 days after mailing of the notice, submit to the department any facts within its possession disclosing whether the claimant left the employer's employ voluntarily and without good cause or left under one of the following circumstances:

(1) The claimant was discharged from the employment for misconduct connected with his or her work.

(2) The claimant's discharge or quitting from his or her most recent employer was the result of an irresistible compulsion to use or consume intoxicants including alcoholic beverages.

(3) The claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period.

(4) The claimant left the employer's employ to accompany his or her spouse or domestic partner to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available.

(5) The claimant left the employer's employ to protect his or her family or himself or herself from domestic violence abuse.

The period during which the employer may submit these facts may be extended by the director for good cause.

(b) Any base period employer that is not entitled under Section 1327 to receive notice of the filing of a new or additional claim and is entitled under Section 1329 to receive notice of computation may, within 15 days after mailing of the notice of computation, submit to the department any facts within its possession disclosing whether the claimant left the employer's employ voluntarily and without good cause or left under one of the following circumstances:

(1) The claimant was discharged from the employment for misconduct connected with his or her work.

(2) The claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period.

(3) The claimant left the employer's employ to accompany his or her spouse or domestic partner to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available.

(4) The claimant left the employer's employ to protect his or her family or himself or herself from domestic violence abuse.

The period during which the employer may submit these facts may be extended by the director for good cause.

(c) The department shall consider these facts together with any information in its possession. If the employer is entitled to a ruling under subdivision (b) or to a determination under Section 1328, the department shall promptly notify the employer of its ruling as to the cause of the termination of the claimant's employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which includes, but is not limited to, mistake, inadvertence, surprise, or excusable neglect. The director is an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. However, a ruling or reconsidered ruling that relates to a determination that is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that determination.

(d) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons for the leaving, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving is presumed to be without good cause.

(e) An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

SEC. 1.5. Section 1030 of the Unemployment Insurance Code is amended to read:

1030. (a) Any employer who is entitled under Section 1327 to receive notice of the filing of a new or additional claim may, within 10 days after mailing of the notice, submit to the department any facts within its possession disclosing whether the claimant left the employer's employ voluntarily and without good cause or left under one of the following circumstances:

(1) The claimant was discharged from the employment for misconduct connected with his or her work.

(2) The claimant's discharge or quitting from his or her most recent employer was the result of an irresistible compulsion to use or consume intoxicants including alcoholic beverages.

(3) The claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period.

(4) The claimant left the employer's employ to accompany his or her spouse or domestic partner to a place or to join him or her at a place from which it is impractical to commute to the employment, and to which a transfer of the claimant by the employer is not available.

(5) The claimant left the employer's employ to protect his or her family or himself or herself from domestic violence abuse.

The period during which the employer may submit these facts may be extended by the director for good cause.

(b) Any base period employer that is not entitled under Section 1327 to receive notice of the filing of a new or additional claim and is entitled under Section 1329 to receive notice of computation may, within 15 days after mailing of the notice of computation, submit to the department any facts within its possession disclosing whether the claimant left the employer's employ voluntarily and without good cause or left under one of the following circumstances:

(1) The claimant was discharged from the employment for misconduct connected with his or her work.

(2) The claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period.

(3) The claimant left the employer's employ to accompany his or her spouse or domestic partner to a place or join him or her at a place from which it is impractical to commute to the employment, and to which a transfer of the claimant by the employer is not available.

(4) The claimant left the employer's employ to protect his or her family or himself or herself from domestic violence abuse.

The period during which the employer may submit these facts may be extended by the director for good cause.

(c) The department shall consider these facts together with any information in its possession. If the employer is entitled to a ruling under subdivision (b) or to a determination under Section 1328, the department shall promptly notify the employer of its ruling as to the cause of the termination of the claimant's employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which includes, but is not limited to, mistake, inadvertence, surprise, or excusable neglect. The director is an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. However, a ruling or reconsidered ruling that relates to a determination that is reconsidered pursuant to subdivision

(a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that determination.

(d) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons for the leaving, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving is presumed to be without good cause.

(e) An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(f) For purposes of this section "spouse" includes a person to whom marriage is imminent, and "domestic partner" includes a person to whom a domestic partnership, as described in Section 297 of the Family Code, is imminent.

SEC. 2. Section 1032 of the Unemployment Insurance Code is amended to read:

1032. If it is ruled under Section 1030 or 1328 that the claimant left the employer's employ voluntarily and without good cause, or left under one of the following circumstances, benefits paid to the claimant subsequent to the termination of employment that are based upon wages earned from the employer prior to the date of the termination of employment shall not be charged to the account of the employer, except as provided by Section 1026, unless the employer failed to furnish the information specified in Section 1030 within the time limit prescribed in that section or unless that ruling is reversed by a reconsidered ruling:

(a) The claimant was discharged by reason of misconduct connected with his or her work.

(b) The claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period.

(c) The claimant left the employer's employ to accompany his or her spouse or domestic partner to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available.

(d) The claimant left the employer's employ to protect his or her family or himself or herself from domestic violence abuse.

(e) The claimant left the employer's employ to take a substantially better job.

(f) The claimant's discharge or quitting from his or her most recent employer was the result of an irresistible compulsion to use or consume intoxicants including alcoholic beverages.

For purposes of this section and Section 1030 "spouse" includes a person to whom marriage is imminent.

SEC. 2.5. Section 1032 of the Unemployment Insurance Code is amended to read:

1032. If it is ruled under Section 1030 or 1328 that the claimant left the employer's employ voluntarily and without good cause, or left under one of the following circumstances, benefits paid to the claimant subsequent to the termination of employment that are based upon wages earned from the employer prior to the date of the termination of employment shall not be charged to the account of the employer, except as provided by Section 1026, unless the employer failed to furnish the information specified in Section 1030 within the time limit prescribed in that section or unless that ruling is reversed by a reconsidered ruling:

(a) The claimant was discharged by reason of misconduct connected with his or her work.

(b) The claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period.

(c) The claimant left the employer's employ to accompany his or her spouse or domestic partner to a place or to join him or her at a place from which it is impractical to commute to the employment, and to which a transfer of the claimant by the employer is not available.

(d) The claimant left the employer's employ to protect his or her family or himself or herself from domestic violence abuse.

(e) The claimant left the employer's employ to take a substantially better job.

(f) The claimant's discharge or quitting from his or her most recent employer was the result of an irresistible compulsion to use or consume intoxicants including alcoholic beverages.

(g) For purposes of this section "spouse" includes a person to whom marriage is imminent, and "domestic partner" includes a person to whom a domestic partnership, as described in Section 297 of the Family Code, is imminent.

SEC. 3. Section 1256 of the Unemployment Insurance Code is amended to read:

1256. An individual is disqualified for unemployment compensation benefits if the director finds that he or she left his or her most recent work voluntarily without good cause or that he or she has been discharged for misconduct connected with his or her most recent work.

An individual is presumed to have been discharged for reasons other than misconduct in connection with his or her work and not to have voluntarily left his or her work without good cause unless his or her employer has given written notice to the contrary to the department as provided in Section 1327, setting forth facts sufficient to overcome the presumption. The presumption provided by this section is rebuttable.

An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party, shall not be deemed to have left his or her work without good cause.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her

spouse or domestic partner to a place from which it is impractical to commute to the employment. For purposes of this section “spouse” includes a person to whom marriage is imminent.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to protect his or her family, or himself or herself, from domestic violence abuse.

An individual shall be deemed to have left his or her most recent work with good cause if he or she elects to be laid off in place of an employee with less seniority pursuant to a provision in a collective bargaining agreement that provides that an employee with more seniority may elect to be laid off in place of an employee with less seniority when the employer has decided to lay off employees.

SEC. 3.5. Section 1256 of the Unemployment Insurance Code is amended to read:

1256. An individual is disqualified for unemployment compensation benefits if the director finds that he or she left his or her most recent work voluntarily without good cause or that he or she has been discharged for misconduct connected with his or her most recent work.

An individual is presumed to have been discharged for reasons other than misconduct in connection with his or her work and not to have voluntarily left his or her work without good cause unless his or her employer has given written notice to the contrary to the department as provided in Section 1327, setting forth facts sufficient to overcome the presumption. The presumption provided by this section is rebuttable.

An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party, shall not be deemed to have left his or her work without good cause.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse or domestic partner to a place or to join him or her at a place from which it is impractical to commute to the employment. For purposes of this section “spouse” includes a person to whom marriage is imminent, and “domestic partner” includes a person to whom a domestic partnership, as described in Section 297 of the Family Code, is imminent.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to protect his or her family, or himself or herself, from domestic violence abuse.

An individual shall be deemed to have left his or her most recent work with good cause if he or she elects to be laid off in place of an employee with less seniority pursuant to a provision in a collective bargaining agreement that provides that an employee with more seniority may elect to be laid off in place of an employee with less seniority when the employer has decided to lay off employees.

SEC. 4. Section 1329 of the Unemployment Insurance Code is amended to read:

1329. (a) Upon the filing of a new claim for benefits, the department shall promptly make a computation on the claim that shall set forth the maximum amount of benefits potentially payable during the benefit year, and the weekly benefit amount. The department shall promptly notify the claimant of the computation and the method of computation. The department shall promptly notify each of the claimant's base period employers of the computation after the payment of the first weekly benefit.

(b) The department shall promptly notify each of the claimant's base period employers of the computation on the claim that shall set forth the number of weeks that the claimant will be eligible for benefits in the benefit year, the weekly benefit amount, and the maximum amount of benefits potentially payable during the benefit year, based on a determination of eligibility under Article 1.5 (commencing with Section 1266).

SEC. 5. Section 1329.1 is added to the Unemployment Insurance Code, to read:

1329.1. A claim for unemployment compensation benefits may be canceled if all of the following apply:

(a) The individual has not been deemed ineligible for unemployment compensation benefits.

(b) The individual has not been overpaid unemployment compensation benefits.

(c) The individual has not collected unemployment compensation benefits.

SEC. 6. Section 1537 of the Unemployment Insurance Code is amended to read:

1537. Whenever any warrant drawn on an account in the Unemployment Fund or on the Unemployment Administration Fund or the Contingent Fund by the Controller remains unclaimed after one year the amount thereof shall revert to the account and the fund from which the amount was payable.

SEC. 7. Section 3011 of the Unemployment Insurance Code is amended to read:

3011. Whenever any warrant is drawn on an account in the Disability fund by the Controller, and the same remains unclaimed after one year, the amount thereof shall revert to that account in the Disability Fund from which the amount was payable.

SEC. 8. Division 5 (commencing with Section 12100) of the Unemployment Insurance Code is repealed.

SEC. 9. Section 1.5 of this bill incorporates amendments to Section 1030 of the Unemployment Insurance Code proposed by both this bill and AB 2055. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 1030 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 2055, in which case Section 1 of this bill shall not become operative.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 1032 of the Unemployment Insurance Code proposed by both this bill and AB 2055. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section

1032 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 2055, in which case Section 2 of this bill shall not become operative.

SEC. 11. Section 3.5 of this bill incorporates amendments to Section 1256 of the Unemployment Insurance Code proposed by both this bill and AB 2055. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 1256 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 2055, in which case Section 3 of this bill shall not become operative.

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